

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

James Edward Cook, Jr.,

Plaintiff,

v.

Scioto County Jail, *et al.*,

Defendants.

Case No. 1:20cv022

Judge Michael R. Barrett

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on March 25, 2021 (Doc. 22).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court notes, however, that though such notice was served upon Plaintiff, it was returned to the Court due to Plaintiff’s failure to apprise the Court of his change of address. On April 5, 2021, mail from the Court addressed to Plaintiff was returned by the Western Regional Jail as “RETURN TO SENDER, NO LONGER IN THIS FACILITY” and from the United States Postal Service, “RETURN TO SENDER, NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD.” (Doc. 23). Plaintiff demonstrates a lack of prosecution of his action. *See, e.g., Theede v. United States Department of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999). Failure to object to a Magistrate Judge’s R&R (Doc. 22) due to delay resulting from Plaintiff’s failure to bring to the Court’s attention a change in address constitutes failure to object in a timely manner. Because the R&R

(Doc. 22) was mailed to the last known address, it was properly served, and Plaintiff waived right to appellate review. See *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). A *pro se* litigant has an affirmative duty to diligently pursue the prosecution of his cause of action. *Barber v. Runyon*, No. 93-6318, 1994 WL 163765, at *1 (6th Cir. May 2, 1994). A *pro se* litigant has a duty to supply the court with notice of any and all changes in his address. No objections to the Magistrate Judge's R&R (Doc. 22) have been filed.

Accordingly, it is **ORDERED** that the R&R (Doc. 22) of the Magistrate Judge is hereby **ADOPTED**. Consistent with the recommendation by the Magistrate Judge, this matter is **DISMISSED with prejudice** for want of prosecution pursuant to Fed. R. Civ. P. 41(b).

Any request for certificate of appealability or request to certify an appeal would not be taken in good faith and would be denied.

IT IS SO ORDERED.

/s Michael R. Barrett
Michael R. Barrett, Judge
United States District Court